IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 427 (SS) OF 2006

Hari Ram Sharma,
S/o Sri Mahesh Nand Sharma,
Indian Veterinary Research Institute, Mukteshwar,
District Almora. .....Petitioner

Versus

1. Union of India, through Dirtector General I.C.A.R., New Delhi.
2. The Chief Administrative Officer, Indian Veterinary Indian Institute, Izzat Nagar, Bareily, U.P.
3. Assistant Administrative Officer, Indian Veterinary Indian Institute, Izzat Nagar, Bareily, U.P.
4. Sri Bhupendra Singh Parihar, SSGR-IInd Forest Guard, Indian Veterinary Indian Institute, Mukteshwar, Nainital. .....Respondents.

Sri Tanuj Semwal, Advocate for the petitioner.
Learned A.S.G.

Dated: 28.03.2006

Hon'ble Rajesh Tandon, J.

Both the parties have agreed that let the matter be finally disposed of.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order-dated 22.03.2006 (Annexure No. 7 to this writ petition). Further prayer has been made for a writ of mandamus directing the respondents to promote the petitioner on the post of forest Deputy Ranger.

2. Briefly stated, the claim of the petitioner is that he is working as Forest Guard-III in Indian Veterinary Indian

Institute, Mukteshwar, Nainital. The Institute comes under the forest Department of the Central Government. The petitioner was initially appointed as Forest Guard in Veterinary Indian Institute, Mukteshwar, Nainital on 08.02.1989. At present the petitioner is working in the pay-scale of Rs. 2975-3300.

3. On 11.11.2005, a circulation was issued for the promotion from the Department for various posts and in pursuance thereof, the petitioner applied for the post of Deputy Ranger (T-1), which had to be filled up by the department promotion. The educational qualification of the petitioner is Intermediate.

4. In the year, 2002 (IInd Session), the petitioner has undergone Forest Guard Training and was place at first position and was awarded a medal in the training.

5. The grievance of the petitioner is that respondent no. 4 who is junior to the petitioner has been promoted form the Forest Guard to the Deputy Ranger (T-1) by order of the respondent no. 4 in accordance with the circulation dated 11.11.2005 from the departmental promotion.

6. Learned counsel for the petitioner has referred Rule 7.1 of the Technical Service Rules. The letter dated 20th December, 1985 of the Director (Personnel) S.P. Rai, where he has referred Rule 7.1 of the Technical Service Rules is quoted below:-

"In accordance with the provisions of Rule 7.1 of the Technical Service Rules, 20% of the vacancies in grade T-1 of the Category-I may be filled by promotion of persons in supporting services possessing qualification prescribed for Category-I.

Clarification has been sought by some Institutes whether promotion to T-I posts against the 20% vacancies to b filled by the promotion of persons from supporting staff

services is to be restricted to the persons of supporting staff grade IV only which is the highest grade in supporting services of educationally qualified person in all the four grades of supporting service viz; grade I, II, III....IV could be considered for promotion also to T-I---, (in this connection it is clarified that person in grade IV of supporting services with requisite qualifications may be considered first for promotion to –I posts under rule 7.1 of the technical service rules and in the even of non availability of qualified person in that grade, persons Grade III, II, & I respectively may be considered for promotion to T-I posts in gradual succession, if otherwise qualified."

However, liberty is given to the petitioner to move a fresh representation before the authorities concerned and if the petitioner is covered under the zone of consideration, the authorities concerned may pass appropriate orders considering the representation of the petitioner in accordance with the Rules.

Subject to the aforesaid, writ petition is finally disposed of. Order passed on 22nd March, 2006 by which the promotion has been made shall be subject to the final result of the representation to be filed by the petitioner.

No order as to costs.

(Rajesh Tandon, J.)

28.03.2006
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